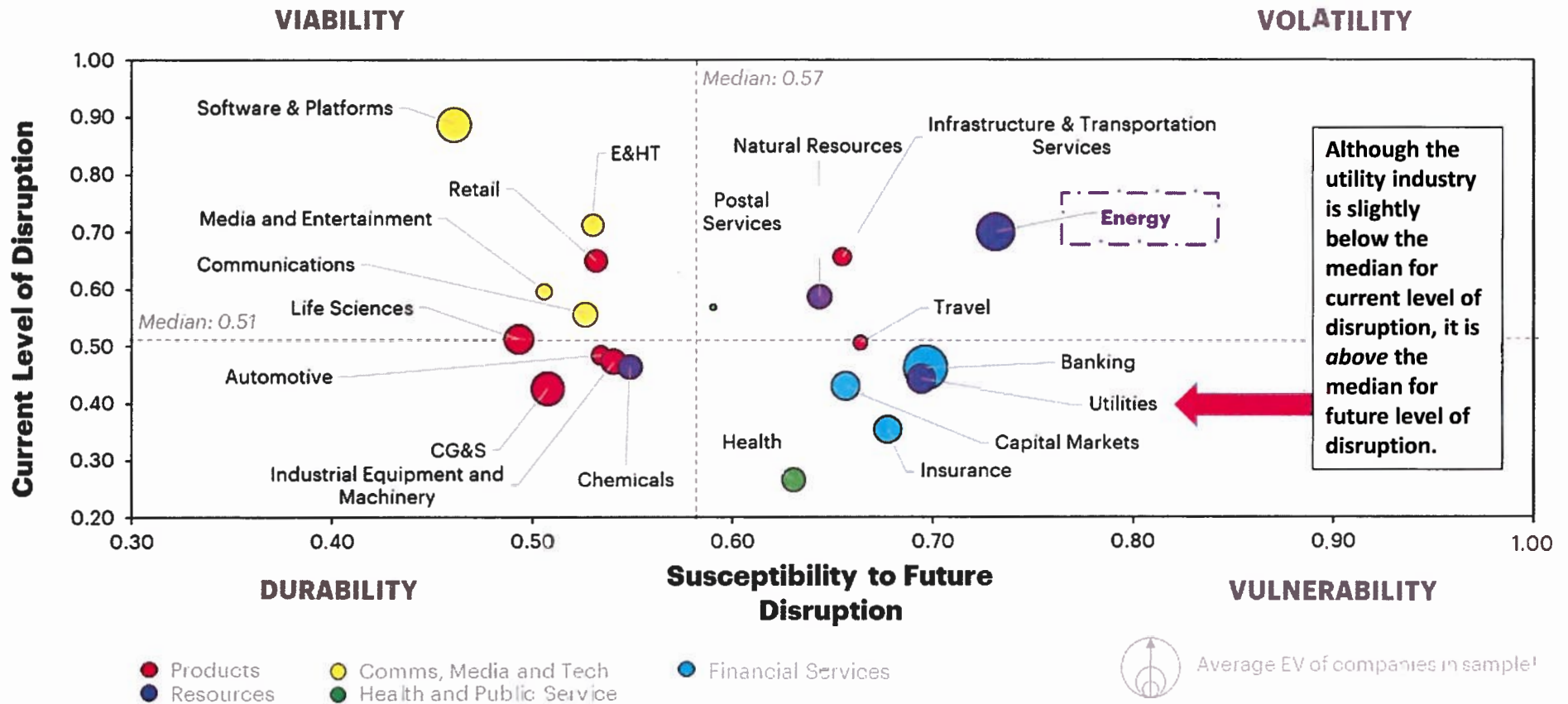


House Bill 3659

SC Energy Freedom Act

May 29, 2019

ENERGY SECTOR MOST SUSCEPTIBLE TO FUTURE DISRUPTION

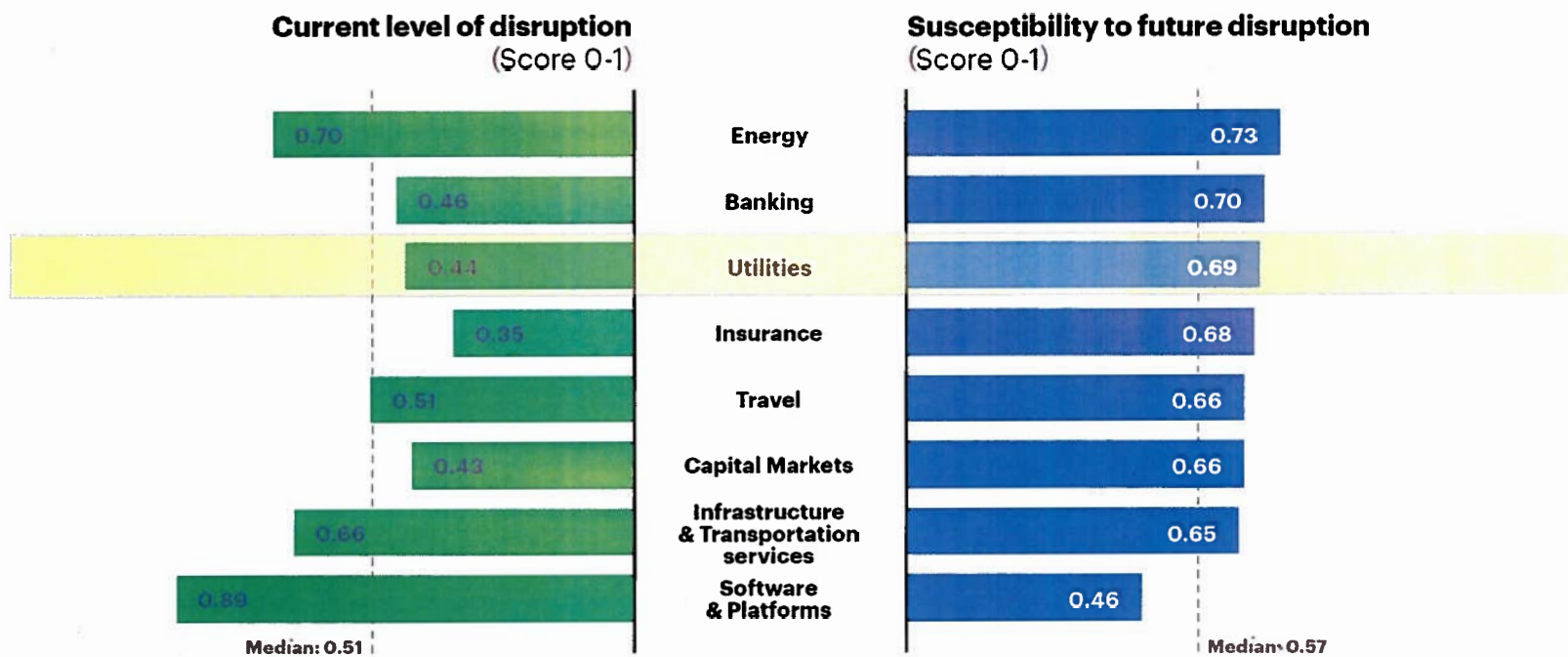


Source: Accenture Research Disruptability Index.
Total sample = 3,629; sample sizes range between 555 and 21, with an average of 181 companies per industry.

DISRUPTION IS INEVITABLE

DISRUPTABILITY INDEX | 11

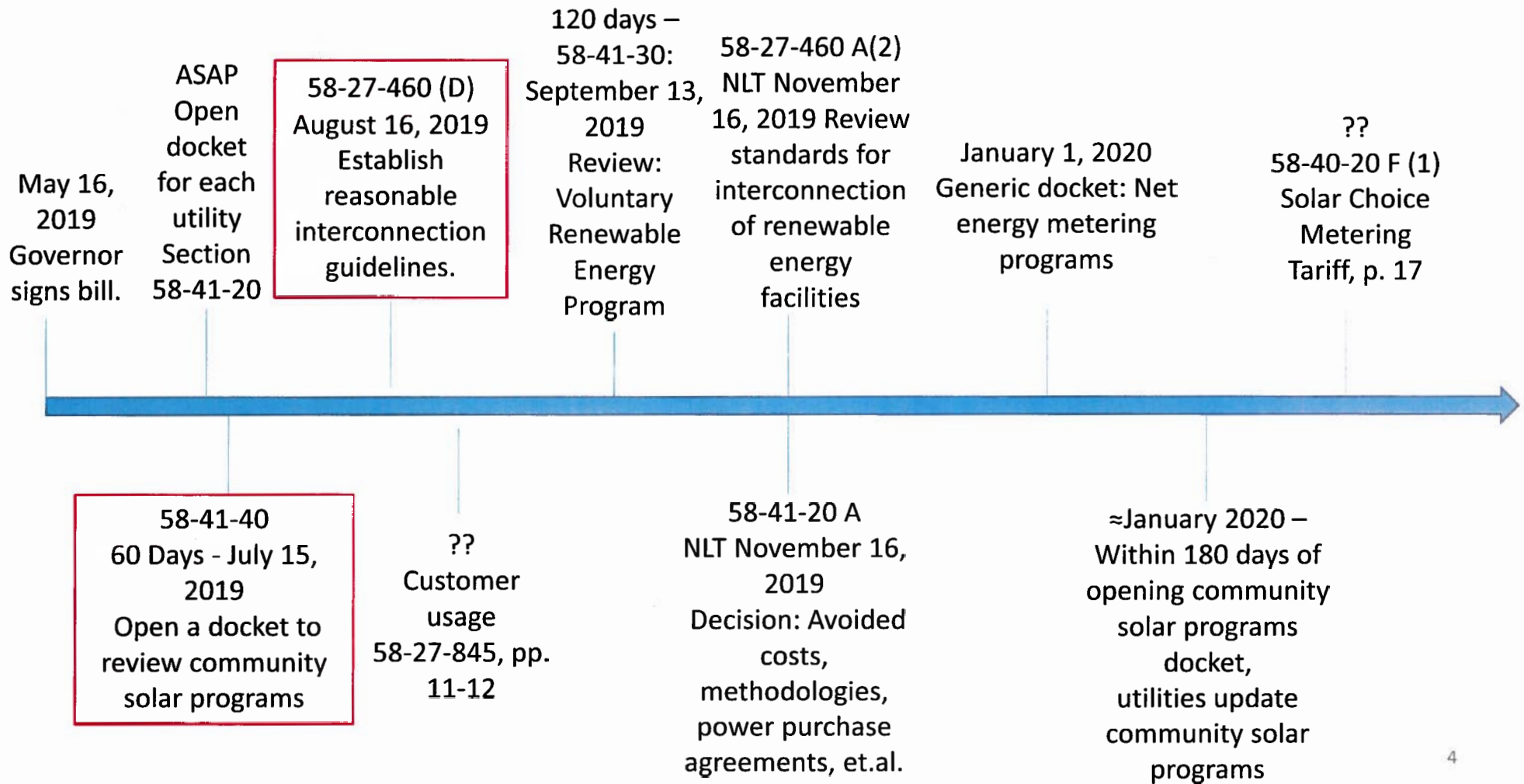
YET, NOT EVERY INDUSTRY IS IMPACTED BY DISRUPTION IN THE SAME WAY



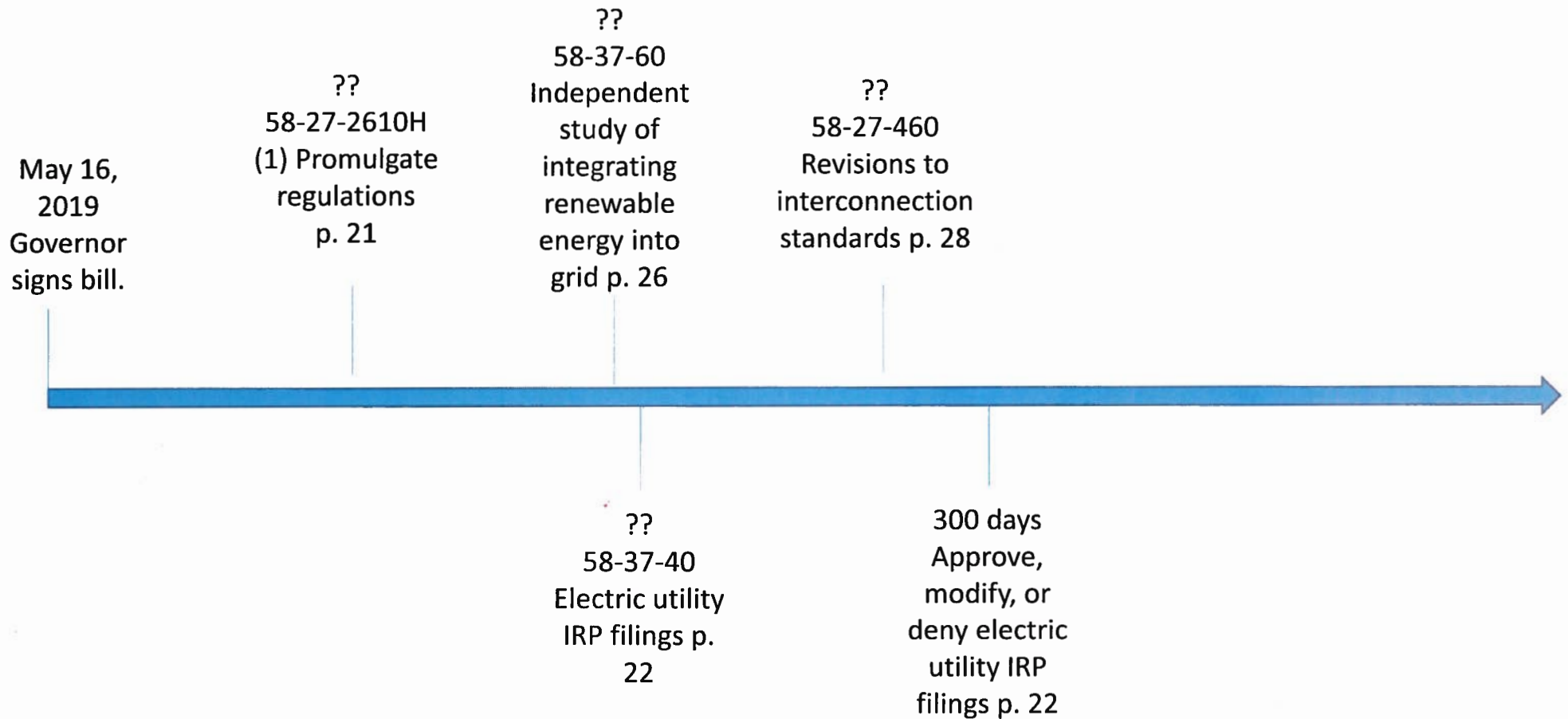
Source: Based on composite index measuring 20 different industry sectors by current level of disruption and susceptibility to future disruption—see [About the Research](#) for further details

Source: *Disruption Need Not Be an Enigma*, Accenture, 2018, p. 11.

PSC Timeline for SC Energy Freedom Act



PSC Timeline for SC Energy Freedom Act



Chapter 41: Renewable Energy Programs

- **“The commission is directed to address all renewable energy issues in a fair and balanced manner, considering the costs and benefits to all customers of all programs and tariffs that relate to renewable energy and energy storage both as part of the utility’s power system and as direct investments by customers for their own energy needs and renewable goals.”**
- **“The commission also is directed to ensure that the revenue recovery, cost allocation, and rate design of utilities that it regulates are just and reasonable and properly reflect changes in the industry as a whole, the benefits of customer renewable energy, energy efficiency, and demand response...”**

Standard Offer, Avoided Costs, etc. Proceeding

- **Section 58-41-20 (A)**: Within *6 months* after the effective date of this chapter (**November 16, 2019**), and at least once every 24 months thereafter (November 16, 202?, November 16, 202?,...), the PSC shall establish or approve each electrical utility's avoided cost rates, avoided cost methodologies, standard offer power purchase agreements, form contract power purchase agreements, commitment to sell forms, et. al. **(Discussion to decide)**
- Within such proceeding, the PSC shall approve one or more standard form purchase power agreements for use for small power production facilities not eligible for the standard offer (producing up to 2 MW Alternating Current).

Standard Offer, Avoided Costs, etc. Proceeding

- **Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing.**
- **Proceedings must be separate from the electrical utilities' annual fuel cost proceedings.**
- **...the PSC shall treat small power producers on a fair and equal footing with electrical utility-owned resources...**

Standard Offer, Avoided Costs, etc. Proceeding

- **Section 58-41-20 (D)**: The PSC shall approve a standard notice of commitment-to-sell form that provides small power producers a reasonable period of time from its submittal of the form to execute a power purchase agreement with an electrical utility at the rates, and pursuant to the power purchase agreement terms and conditions, then in effect.
- **PSC shall receive purchase power agreements from electrical utilities resulting from voluntary negotiation of contracts between an electrical utility and a small power producer not eligible for the standard offer (producing up to 2 MW Alternating Current).**

FERC and PURPA

The Public Utility Regulatory Policies Act of 1978 (PURPA) was implemented to encourage:

- 1. The conservation of electric energy.**
- 2. Increased efficiency in the use of facilities and resources by electric utilities.**
- 3. Equitable retail rates for electric consumers.**
- 4. Expeditious development of hydroelectric potential at existing small dams.**
- 5. Conservation of natural gas while ensuring that rates to natural gas consumers are equitable.**

One of the ways PURPA set out to accomplish its goals was through the establishment of a new class of generating facilities which would receive special rate and regulatory treatment. Generating facilities in this group are known as qualifying facilities (QFs), and fall into two categories: qualifying small power production facilities and qualifying cogeneration facilities.

What Is a “Small Power Producer”?

- **16 U.S. Code 796**: “A facility which is an eligible solar, wind, waste, or geothermal facility or a facility which produces electric energy using, as a primary source, of biomass, waste, renewable resources, geothermal resources, or any combination thereof, and has a power production capacity... not greater than 80 megawatts.”
- **FERC**: “A small power production facility is a generating facility of 80 MW or less whose primary energy source is renewable (hydro, wind or solar), biomass, waste, or geothermal resources.”

Standard Offer, Avoided Costs, etc. Proceeding

- **Section 58-41-20 E(2)**: The PSC is authorized to open a generic docket for creating programs for the competitive procurement of energy and capacity from renewable energy facilities by an electric utility. (Discussion to decide)
- **E(3)**: In establishing standard offer and form contract power purchase agreements, the PSC shall consider whether such power purchase agreements should prohibit any of the following:
 - termination of the power purchase agreement, collection of damages from small power producers, or commencement of the term of a power purchase agreement prior to commercial operation, if delays in achieving commercial operation of the small power producer's facility are due to the electrical utility's interconnection delays; or
 - the electrical utility reducing the price paid to the small power producer based on costs incurred by the electrical utility to respond to the intermittent nature of electrical generation by the small power producer.

Standard Offer, Avoided Costs, etc. Proceeding

- **Section 58-41-20 F(1)**: Electrical utilities, subject to approval of the commission, shall offer to enter into fixed price power purchase agreements with small power producers for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of 10 years.
- The commission may also approve commercially reasonable fixed price power purchase agreements with a duration longer than 10 years, which must contain additional terms, conditions, and/or rate structures as proposed by intervening parties and approved by the commission, including but not limited to, a reduction in the contract price relative to the 10 year avoided cost.
- The terms of this subsection apply only to those small power producers whose qualifying small power production facilities have active interconnection requests on file with the electrical utility prior to the effective date of this act ("grandfathered").

Standard Offer, Avoided Costs, etc. Proceeding

- **The PSC shall engage, for each utility, a qualified independent third party to submit a report that includes the third party's independently derived conclusions concerning each utility's calculation of avoided costs for purposes of these proceedings. The PSC cannot use the same independent third party that ORS uses.**

Utilities' Voluntary Renewable Energy Programs

- **Section 58-41-30. (A)** Within *120 days* of the effective date of this chapter (**September 13, 2019**), each electrical utility *shall* file a proposed voluntary renewable energy program for review and approval by the commission. (Discussion to decide)
- The PSC shall conduct a proceeding to review the program and establish reasonable terms and conditions for the program. Interested parties *shall* have the right to participate in the proceeding.
- The PSC may periodically hold additional proceedings to update the program. (Discussion to decide)

Community Solar Programs

- **Section 58-41-40 (B)(1): Within 60 days **(July 15, 2019)** after the effective date of this chapter, the PSC shall open a docket for each electrical utility to review their community solar programs and solicit status information on existing programs from the electrical utilities. **(Discussion to decide)****
- **Within 180 days after the commission opens the docket pursuant to item (1), the electrical utilities shall update their report on their existing programs and to propose new programs. **(Discussion to decide)****

Just and Reasonable Rates

- **Section 58-27-845**: In fixing just and reasonable utility rates pursuant to Section 58-3-140 and Section 58-27-810, the PSC shall consider whether rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between cost incurred and benefits received, and that no one class of customers are unduly burdening another, and that each customer class pays, as close as practicable, the cost of providing service to them.
- For each class of service, the PSC must ensure that each electrical utility offers to each class of service a minimum of one reasonable rate option that aligns the customer's ability to achieve bill savings with long-term reductions in the overall cost the electrical utility will incur in providing electric service, including, but not limited to time-variant pricing structures.

Net Metering

- **Section 58-40-20: The General Assembly requires the PSC to establish solar choice metering requirements that fairly allocate costs and benefits to eliminate any cost shift or subsidization associated with net metering to the greatest extent practicable.**
- **No later than January 1, 2020, the PSC shall open a generic docket to:**
 - investigate and determine the costs and benefits of the current net energy metering program; and
 - establish a methodology for calculating the value of the energy produced by customer-generators. (Discussion to decide)

Net Metering

- **Section 58-40-20 (D)**: In evaluating the costs and benefits of the net energy metering program, the PSC shall consider:
 - the aggregate impact of customer-generators on the electrical utility's long-run marginal costs of generation, distribution, and transmission;
 - the cost of service implications of customer-generators on other customers within the same class, including evaluation of whether customer-generators provide an adequate rate of return to the electrical utility compared to the otherwise applicable rate class when, for analytical purposes only, examined as a separate class within a cost of service study;
 - the value of distributed energy resource generation according to the methodology approved by the PSC in Order No. 2015-194;
 - the direct and indirect economic impact of the net energy metering program to the state, etc.

Net Metering

- The value of the energy produced by customer-generators must be updated annually and the methodology for determining that value revisited every five years. (Discussion to decide)

Net Metering: Solar Choice

- **Section 58-40-20 F(1)**: After notice and opportunity for public comment and public hearing, the commission shall establish a new 'solar choice metering tariff' for customer-generators to go into effect for applications received after May 31, 2021. (Discussion to decide)
- **Section 58-40-20 H**: The PSC shall establish a minimum guaranteed number of years to which solar choice metering customers are entitled pursuant to the commission approved energy measurement interval and other terms of their agreement with the electrical utility.
- Nothing in the section prohibits the commission from considering and establishing tariffs for another renewable energy resource. (Discussion to decide)

Customer-Generator Lessees and Exemptions

- **Section 58-27-2610 H(1)**: The provisions of this Article 23 related to leased generation facilities shall not apply to:
 - (a) facilities serving a single premises that are not interconnected with a retail electric provider;
 - (b) facilities owned by customer-generators but financed by a third party; or
 - (c) facilities used exclusively for standby emergency service or participation in an approved standby generation program operated by a retail electric provider.
- **H(2)**: The PSC may promulgate regulations consistent with this section interpreting the scope of these exemptions as to electrical utilities.
(Discussion to decide)